

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ORDER

This matter is before the Court for review of the Report and Recommendation issued by United States Magistrate Judge Gary M. Purcell pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Judge Purcell recommends the dismissal of this action without prejudice due to Plaintiff's failure to pay the required filing fee, to cure a deficient motion to proceed *in forma pauperis* (IFP), and to prosecute the action.

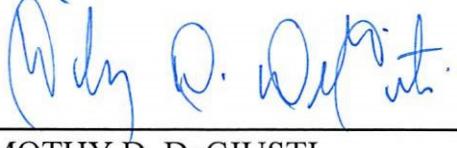
The case file shows no timely objection or request for an extension of time, even though Plaintiff was expressly informed of his right to object, the procedure for doing so, and the firm waiver rule. The docket instead shows that the Clerk’s mailings to Plaintiff of the Report and Recommendation and an order to cure deficiencies in his IFP motion were returned as undeliverable [Doc. Nos. 8, 9] with a notation indicating Plaintiff is no longer located at his address of record. However, Plaintiff is responsible for giving notice of any change of address, and “[p]apers sent by the court will be deemed delivered if sent to the last known address given to the court.” See LCVR5.4(a); see also *Theede v. U.S.*

Dep't of Labor, 172 F.3d 1262, 1267-68 (10th Cir. 1999) (pro se plaintiff who failed to provide a change of address waived right to review by failing to timely object to R&R).

Therefore, the Court finds that Plaintiff has waived further review of the issues addressed in the Report. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Further, for the reasons explained by Judge Purcell, the Court finds that this action should be dismissed without prejudice.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 7] is **ADOPTED** in its entirety. This action is **DISMISSED** without prejudice to refiling. A separate judgment of dismissal shall be entered.

IT IS SO ORDERED this 11th day of July, 2022.



TIMOTHY D. DeGIUSTI
Chief United States District Judge